

Remarks

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 1-7 are pending in the application, claim 1 being the independent claim. New claims 6 and 7 are sought to be added.

Support for new claim 6 may be found at least in Figure 3 and support for new claim 7 may be found at least in paragraph [0052] on page 18 of the specification. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

Objection to the Oath/Declaration

The declaration was objected to as being allegedly defective. Applicants traverse this objection in light of the notice titled, "Duty of Disclosure Language Set Forth in Oaths or Declarations Filed in Nonprovisional Patent Applications", which may be found in volume 137, page 112 of the Official Gazette of the USPTO, published February 12, 2008. A copy of the notice is attached hereto.

As indicated in the notice, the requirement referred to in the Office Action has been waived for all declarations filed prior to June 1, 2008. Since the declaration for this application was filed before June 1, 2008, Applicants respectfully request that the objection to the declaration be withdrawn.

Objection to the Abstract

The abstract is objected to for exceeding 150 words. The abstract is amended herein to contain less than 150 words. Accordingly, Applicants respectfully request that the objection to the abstract be withdrawn.

Rejections under 35 U.S.C. § 102

Claims 1-5 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 4,355,609 to Skinner ("the Skinner patent"). Applicants respectfully traverse this rejection.

Claim 1, as amended herein, recites a governor device wherein "a set load changing means for the elastic member is attached to the first lever near the elastic member." The Skinner patent fails to disclose or suggest the claimed invention.

The Examiner states that in the Skinner patent "a set load changing means for the elastic member (24) is provided on the first lever (16) near the elastic member (24)" without specifying which element he considers to be the set load changing means in the Skinner patent. If the Examiner considers stop 19 to be a set load changing means, then stop 19 is not attached to lever 16 of the Skinner patent. Since, there is no disclosure or suggestion in the Skinner patent that stop 19 or any other element of the Skinner patent is "a set load changing means for the elastic member is attached to the first lever near the elastic member." Accordingly, the Skinner patent fails to disclose or suggest the claimed invention.

For at least the reasons noted above, independent claim 1, and claims 2-5 which depend therefrom and add further limitations, are allowable. Applicants respectfully request that the rejections the claims 1-5 be withdrawn and the claims allowed.

New claim 6 depends from claim 1 and is allowable for at least the same reasons as claim 1 noted above. In addition, claim 6 is also allowable because the Skinner patent fails to disclose or suggest that "the governor weight acts directly on the third lever." On the contrary the governor weights associated with element 15 of the Skinner patent act directly on the "second" lever 12 and not the "third" lever 11.

New claim 7 depends from claim 1 and is allowable for at least the same reasons as claim 1 noted above. In addition, claim 7 is also allowable because the Skinner patent fails to disclose or suggest that the "governor device is enclosed in a crankcase comprising an opening that allows adjustment of the set load changing means."

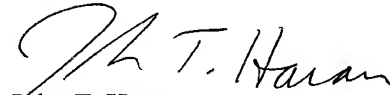
Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully
requested.

Respectfully submitted,

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Duty of Disclosure Language Set Forth in Oaths or Declarations Filed in Nonprovisional Patent Applications

Duty of Disclosure Language Set Forth in Oaths or Declarations
Filed in Nonprovisional Patent Applications

Summary:

The United States Patent and Trademark Office (Office) will no longer accept as complying with 37 CFR 1.63(b)(3) an oath or declaration that does not acknowledge a duty to disclose information material to patentability as defined in 37 CFR 1.56. All oaths or declarations filed on or after June 1, 2008, will be required to include the language expressly set forth in 37 CFR 1.63, including that in 37 CFR 1.63(b)(3). This notice applies to oaths or declarations filed in all nonprovisional patent applications, including reissue applications.

Background:

Current 37 CFR 1.63 sets forth the requirements for an oath or declaration filed in a nonprovisional patent application. 37 CFR 1.63(b)(3) sets forth what the person making the oath or declaration must state when acknowledging the duty of disclosure. Specifically, 37 CFR 1.63(b)(3) requires persons making an oath or declaration to state that they acknowledge their duty to disclose to the Office all information known to the person to be "material to patentability as defined in § 1.56." This language is incorporated in: 37 CFR 1.153, which sets forth the requirements for an oath or declaration in a design application; 37 CFR 1.162, which sets forth the requirements for an oath or declaration in plant patent applications; and 37 CFR 1.175 which sets forth the requirements for an oath or declaration in a reissue application.

In 1992, the Office amended 37 CFR 1.63 to conform to amendments made in 37 CFR 1.56. See Duty of Disclosure, 57 FR 2021 (January 17, 1992) (final rule). The amendments to 37 CFR 1.63(b)(3) resulted in "material to patentability as defined in § 1.56" replacing "material to the examination of the application in accordance with § 1.56(a)." Despite this amendment to 37 CFR 1.63(b)(3), some applicants in their oaths or declarations continue to use "material to the examination of the application" in place of "material to patentability," and "in accordance with § 1.56(a)" in place of "as defined in § 1.56." In response to proper objections made during the examination of pending patent applications, practitioners have argued that the oaths and declarations executed by applicants with the outdated language in question are proper and meet the requirements set forth in 37 CFR 1.63 in view of Comment 38 and the accompanying Reply in the 1992 Final Rule. See Duty of Disclosure at 2027. Additionally, these practitioners have argued that the outdated language should be accepted because the Office has not routinely enforced strict compliance with current 37 CFR 1.63, as evidenced by the number of pending patent applications and issued patents containing oaths or declarations with the outdated "material to examination" and "in accordance with 37 CFR 1.56(a)," language.

Revised Procedure:

With this Notice, the Office is putting applicants and their representatives on notice that compliance with the express language of 37 CFR 1.63 will now be required. Additionally, to the extent the Reply to Comment 38 in the 1992 Final Rule authorized the continued use of the "material to examination" and "in accordance with 37 CFR 1.56(a)," language, this authorization it is hereby rescinded, and reliance on the Reply to Comments 38 will no longer be accepted. If an oath or declaration filed on or after June 1, 2008, does not include the express language set forth in 37 CFR 1.63(b)(3), the Office will object to the oath or declaration as failing to comply with 37 CFR 1.63. A supplemental oath or declaration pursuant to 37 CFR 1.67 will then be required.

For pending applications, the Office is hereby sua sponte waiving the express language requirement of 37 CFR 1.63(b)(3), where the oath or

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declaration was filed prior to June 1, 2008. The express language of 37 CFR 1.63(b)(3) is waived only to the extent necessary such that an oath or declaration containing the "material to examination" or "in accordance with § 1.56(a)" language, or both, will be accepted as acknowledging the applicant's duty to disclose information "material to patentability" as defined in 37 CFR 1.56.

For continuing applications filed under 37 CFR 1.53(b), other than continuation-in-part applications, the Office will accept an oath or declaration that contains the outdated language if the oath or declaration otherwise complies with 37 CFR 1.63, and either: (1) was filed prior to June 1, 2008; or (2) is being filed in a continuation or divisional application in which a claim for benefit under 35 U.S.C. 120 has been made to a prior-filed copending nonprovisional application, and the oath or declaration is a copy of the previously accepted oath or declaration that was filed prior to June 1, 2008.

For issued patents, the Office is hereby waiving nunc pro tunc the express language requirement of 37 CFR 1.63(b)(3), where the oath or declaration was filed prior to June 1, 2008. As stated above, the express language of 37 CFR 1.63(b)(3) is waived only to the extent necessary such that an oath or declaration containing the "material to examination" or "in accordance with § 1.56(a)" language, or both, will be accepted as acknowledging the applicant's duty to disclose information "material to patentability" as defined in 37 CFR 1.56. Any supplemental oath or declaration filed for an issued patent may simply be placed in the patent application file without review or comment.

While not required, patentees and applicants are free to submit newly executed oaths or declarations with the language expressly set forth in current 37 CFR 1.63(b)(3), in accordance with 37 CFR 1.67.

Applicants are advised that, notwithstanding the waiver in the preceding paragraphs, an applicant who has not disclosed information that is material to patentability as defined in current 37 CFR 1.56, because it was believed that the information was not "material to examination," should disclose such information in order to discharge the applicant's duty of disclosure as required by 37 CFR 1.56, and should file a supplemental oath or declaration acknowledging that duty of disclosure.

Questions about this notice may be directed to the Office of Patent

Legal Administration at (571) 272-7701 or electronic mail message to
PatentPractice@uspto.gov.

January 22, 2008

JON W. DUDAS
Under Secretary of Commerce for
Intellectual Property and Director of the
United States Patent and Trademark Office